Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Cross-Ownership of Broadcast Stations and Newspapers	)	MM Docket No. 01-235
	)	
	)	
Newspaper/Radio Cross-Ownership Waiver Policy	)	MM Docket No. 96-197
	)	
	)	

REPLY COMMENTS OF SHAMROCK COMMUNICATIONS INC.
AND
THE SCRANTON TIMES, L.P.

Shamrock Communications Inc. and The Scranton Times, L.P. (collectively ATimes-Shamrock@) hereby submit their reply comments in the above-captioned rulemaking proceeding concerning the newspaper/broadcast cross-ownership rule.[1] Times-Shamrock files these reply comments in support of those Commenters that have urged repeal of the rule. Times-Shamrock particularly endorses those Commenters who have emphasized the importance of eliminating the rule in all markets B not just in large markets.

I. The Record Developed In This Proceeding Supports Repeal

The record before the Commission provides overwhelming support for a total repeal of the rule.[2] The wholesale transformation of the media environment and the explosion of old and

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1 Shamrock Communications Inc. and The Scranton Times, L.P. own grandfathered newspaper/radio cross-ownership interests in the Wilkes-Barre/Scranton, Pennsylvania market.

2 *See, e.g.,* Comments of Belo Corp.; Comments of Bonneville International Corporation; Comments of Cox Enterprises, Inc.; Comments of Gannett Co., Inc.; Comments of Hearst Corporation; Comments of Morris Communications Corporation, Comments of Schurz Communications, Inc.; Comments of Tribune Company; Comments of Media General, Inc.; Comments of The National

new media distribution systems on both national and local levels, detailed by many Commenters in this proceeding, cannot be disputed. These fundamental changes undermine any purported justification for the rule which may have existed when the rule was adopted over twenty-five years ago.

In response to the Notice of Proposed Rulemaking, many Commenters have set forth their experience with common ownership of newspapers and broadcast facilities and have developed a factual record of the significant public interests benefits that have been derived from such ownership.[3] The Commenters have delineated at length the extent of diversity and competition in particular markets of all sizes throughout the country and have established that any concerns that repeal of the rule will adversely impact on diversity and competition are unfounded.[4] Indeed, the Commenters have demonstrated the negative public interest consequences of retention of the rule.[5] The Commenters have also established that the rule unfairly and unreasonably discriminates against broadcasters and newspaper publishers and restricts their ability to compete in today=s highly complex media marketplace.[6] Finally, a number of Commenters have persuasively argued that the rule cannot withstand constitutional

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Association of Broadcasters; Comments of the Newspaper Association of America.

3 *See, e.g.,* Comments of Gannet Co., Inc. at 7-16; Comments of Media General, Inc. at 3-13; Comments of Morris Communications Corporation at 6-12.

4 *See, e.g.,* Comments of the Hearst Corporation at 5-16; Comments of Morris Communications Corporation at 16-24; Comments of Tribune Company at 12-33; Comments of Media General, Inc. at 18-56; Comments of the New York Times Company at 16-18.

5 *See, e.g.,* Comments of Bonneville International Corporation at 7-8; Comments of Tribune Co. at 42-52; Comments of West Virginia Radio Corp. at 32-34.

6 *See e.g.,* Comments of Bonneville International Corporation at 7-8; Comments of Newspaper

review.[7] Times-Shamrock agrees with the positions advanced by these Commenters, and submits that the extensive factual record developed in this proceeding strongly supports elimination of the rule.

II. The Rule Should Be Eliminated In All Markets

A number of Commenters have stressed the importance of repealing the rule for all markets, not just large markets. For example, West Virginia Media Holdings, LLC, in its comments states:

> West Virginia Media believes the record of this proceeding will demonstrate that the newspaper/broadcast cross-ownership rule has outlived its usefulness and now stands as an unnecessary impediment to efficiency-enhancing media combinations. This is true for all markets across the United States. However, it is especially critical that the Commission eliminate the newspaper/broadcast cross-ownership rule in smaller markets because these are the very markets where the efficiencies to be gained from cross-ownership are needed most to promote the production of local news and information.[8]

The National Association of Broadcasters has echoed this sentiment, stating that, A[I]f permitted newspaper/broadcast combinations would similarly allow both newspapers and broadcasters, which are facing unprecedented competition in the digital environment, to maintain

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Association of America at 108-11; Comments of the Journal Broadcast Corporation at 4-5.

7 *See e.g.,* Comments of the Newspaper Association of America at 99-114; Comments of Media General, Inc. at 66-79; Comments of Tribune Company at 58-65.

8 Comments of West Virginia Media Holdings, LLC at 2.

their financial viability and to strengthen their operations, particularly in smaller markets."[9] Media General, Inc. in its Comments speaks to the public interest benefits of the convergence of newspaper, television and on-line platforms in both large and small markets. In this regard, Media General notes:

> [E]xtensive programming and economic studies have failed to show any concerns relevant to market size that would require retention of the rule. If anything, at this critical time when local newspaper and television stations are encountering increased competition from national media services, higher costs of producing good local journalism, and declining advertising revenues, and when local television stations additionally are facing declining network compensation while at the same time funding an expensive transfer to DTV, the Commission should seize this opportunity to remove an unconstitutional ban that, in fact, is inhibiting the public interest and the delivery of enhanced and expanded local news to communities across the nation.[10]

Morris Communications Corporation in its Comments adds that markets in which it operates newspaper/broadcast combinations (Amarillo, Texas and Topeka, Kansas) as well as markets of all sizes across the country have had an explosive growth in news, information and advertising outlets.[11] In a similar fashion, Tribune Company observes that market concentration or voice

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9 Comments of the National Association of Broadcasters at 3.

10 Comments of Media General, Inc. at Executive Summary.

11 Comments of Morris Communications Corporation at 17-24.

count standards or a liberalized waiver policy would suffer from legal, administrative and constitutional flaws.[12]

All of these Commenters raise a critical point B any Commission action short of total repeal of the rule is extremely problematic. The lack of justification for the rule and the rationale supporting its elimination apply in large markets and small markets alike. In fact, denying medium and small market broadcasters and newspaper publishers regulatory relief in this proceeding would violate fundamental principles of fairness and would unreasonably prejudice those broadcasters and newspaper publishers B and the communities they serve B who are most in need of, and would best benefit from, elimination of the rule.

Providing regulatory relief to large market entities at the expense of those in smaller markets has been undertaken by the Commission in the past and, Times-Shamrock submits, has had adverse consequences. The Commission=s relaxation of the television duopoly rule, requiring that eight independently owned and operated broadcast television voices remain in the Designated Market Area after the establishment of a television duopoly,[13] effectively permits television duopolies in large markets, but precludes them in smaller markets. This requirement has denied regulatory relief to many broadcasters who are struggling to compete in today=s media marketplace by prohibiting them from forming duopolies and realizing the associated efficiencies such combinations can provide.

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12 Comments of Tribune Company at 59-71.

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13 47 C.F.R. 73.3555(b)(2)(ii).

Times-Shamrock urges the Commission not to make the same mistake here. Radio stations, television stations and newspapers face significant challenges which threaten their very ability to survive let alone to continue to provide the important public service that they bring to their respective communities. Recent trade press reports of television stations eliminating their news operations confirm that the difficult advertising market, the need to transition to digital television, and the loss of network compensation have made it impossible for small, struggling stations to maintain their local news efforts.[14] If the Commission is concerned with fostering the development of news and information programming, particularly of a local nature, permitting common ownership of newspapers B which by definition are in the news business B and radio and television stations can only advance this goal and serve the public interest.

III. Times-Shamrock=s Experiences In Wilkes-Barre/Scranton, Pennsylvania

The experience of Times-Shamrock in the Wilkes-Barre/Scranton, Pennsylvania market has mirrored that of many of the Commenters in this proceeding. Times-Shamrock owns and operates grandfathered newspaper/radio interests in Wilkes-Barre/Scranton. The market is medium sized B ranked by Arbitron as radio market #64. Like many of the markets discussed in the comments in this proceeding, it has experienced a substantial proliferation of both old and new media and is vastly changed since adoption of the prohibition on cross ownership of newspapers and broadcast stations in 1975.[15] The current Wilkes-Barre/Scranton market is highly diverse and there is no shortage of competition.

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14 Broadcasting and Cable, February 11, 2002 at 29; Broadcasting and Cable, January 21, 2002 at 36.

15 For example, the market now includes 46 radio stations, cable penetration of 82% (120

Like many of the Commenters who have reported on their experience with common newspaper/broadcast ownership, Times-Shamrock can cite the tremendous benefits that are produced by such combinations. Combined ownership provides the opportunity for significant efficiencies and economies of scale. In this regard, perhaps the two most critical benefits are the ability to share physical facilities and to share personnel. With respect to staffing, common staffing can occur at various levels of operations including, for example, shared maintenance, motor pool, accounting, and upper management positions. There are significant cost savings with less duplication of personnel.[16]

Moreover, combined ownership has permitted the sharing of information and resources thus resulting in improved and enhanced news and public interest programming. It has provided the opportunity for joint events that benefit the community and has facilitated the development of new media ventures such as the internet. Times-Shamrock believes the public perceives that the combined newspaper/radio ownership in Wilkes-Barre/Scranton results in substantial benefits, as it offers greater news depth and significant credibility.

Times-Shamrock=s experience also supports those Commenters who have highlighted the unfairness of precluding newspaper/broadcast combinations and who have discussed the challenges broadcast station owners and newspaper publishers face in competing in today=s media marketplace. In the Wilkes-Barre/Scranton market there are two large multiple station radio duopolies which are owned by national radio group owners. Times-Shamrock=s existing

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channels) and internet penetration of 64%.

[16] Times-Shamrock=s experience, however, with respect to advertising and sales has been to maintain separate staffs that sell broadcast and newspaper advertising separately.

newspaper/radio common ownership is necessary in order to compete with these formidable radio duopolies and we would be stronger competitors if the rule were repealed. For newspapers and broadcast stations to compete with the new media, including large radio duopolies, the rule needs to be repealed for all markets in the country.

IV. Conclusion

For the reasons set forth above, Times-Shamrock supports repeal of the newspaper/broadcast cross-ownership rule.

Respectfully submitted,

Shamrock Communications, Inc.

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